

Internal Revenue Service

Department of the Treasury

District  
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO:T

Date:

AUG 23 1996

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reason for this conclusion and the facts on which it is based are explained below.

The information submitted indicates you were incorporated in [REDACTED] [REDACTED] 1985. Your Articles of Incorporation state, "The purpose for which the Corporation is formed is exclusively for pleasure, recreation, and other similar nonprofitable purposes, as contemplated by Section 501(c)(7) of the Internal Revenue Code of 1954... More specifically, the purpose of the Corporation is for a private club for dining, relaxation, including food and beverage service not for profit or pecuniary gain to the members thereof."

In describing your activities, you provided the following, "[REDACTED] is an organization set up for profit and for the recreational and leisure purpose of its members. Local laws and regulations stipulate that only not-for-profit organizations may obtain a mixed beverage license in the local [REDACTED]. Following the suggestion of the [REDACTED] will insure the proper criteria can be met in order to conform with local regulations and provide the [REDACTED] with a mixed beverage license. [REDACTED] will be a Club within the existing [REDACTED]. Criteria for membership into [REDACTED] will be Membership (in good standing) with [REDACTED]. Any and all net profits from the sale of beverages and/or food by [REDACTED] to its members (the members of [REDACTED]) will be paid to [REDACTED] to cover overhead and administrative costs. [REDACTED] will provide food and beverages to its members during normal hours of operation of the [REDACTED]. During the hours of operation any member of the [REDACTED] will be allowed to purchase food and/or mixed beverages providing the sale of these items conforms to all local restrictions governing the sale of these items. The purchase and consumption of food and/or mixed beverages by the members of [REDACTED] will conform to all local restrictions related to the consumption of mixed beverages and will be conducted within the confines of [REDACTED]."

Membership in the [REDACTED] consists of members in good standing in the [REDACTED]. There are currently 393 memberships in the [REDACTED]. Each member of [REDACTED] will pay \$ [REDACTED] yearly for membership as long as they are members in good standing of [REDACTED].

Your income will be derived from food and beverage sales to members. Expenses will include the cost of food and beverages. Any net profit will be paid to [REDACTED] to cover overhead and administrative costs.

Section 501(c)(7) of the Code provides for the exemption from Federal Income Tax of clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes if no part of the net earnings inures to the benefit of any private shareholder.

In applying the term "other non-profitable purposes" the service has long held and has been sustained by the courts that this means other purposes similar to pleasures and recreation.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides as follows:

- (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.
- (b) A club which engaged in business, such as making its social and recreational facilities available to the general public --- is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative bulletin 1976-2, page 597, provides that a club, exempt from taxation and described in section 501(c)(7), is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmember use of its facilities or services, so long as the latter does not present more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Ruling 66-225, published in Cumulative Bulletin 1966-2, page 227, holds that a non-profit organization formed and incorporated by the owner of a for profit corporation which operated a motel and restaurant did not qualify for exemption because it was controlled by a taxable corporation and operated as an integral part of such corporation's business.

The club's articles of incorporation state that its purpose is to operate a private club for its members and to provide entertainment, food, and refreshment for them. It had a dining room and a cocktail lounge that are leased from the motel for a nominal fee. The motel retains the exclusive right to serve food and other beverages to the club's members. Thus all receipts from meals and beverages are received directly by the motel. Therefore, the club is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes and does not qualify for exemption under section 501(c)(7).

Your organization is similar to the one described in the above revenue ruling in that you were formed and organized by a for profit organization to be operated as an integral part of its taxable business for the sole purpose of acquiring a mixed beverage license for the benefit of the members of Blacksburg Country Club. Therefore, you are not deemed to be operated exclusively for pleasure, recreation, and other nonprofitable purposes.

On the basis of the evidence presented, we hold that you do not qualify for exemption under section 501(c)(7) of the Internal Revenue Code.

Until you have established an exempt status, you are not relieved of the requirements for filing Federal income Tax returns.

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If you do not ~~accept~~ our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,



Paul M. Harrington  
District Director

Enclosure: Publication 892